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June 12, 2015

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From: Sachi A. Hamai
Interim Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position to Oppose AB 57 (Quirk).** This measure would provide that a colocation or siting application for a wireless telecommunications facility is deemed approved, if the city or county fails to approve or disapprove the application within the time periods established by the Federal Communications Commission and all required public notices have been provided regarding the application. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose legislation that infringes upon the County's local land use decision-making authority, **the Sacramento advocates will oppose AB 57.**
- **Change of Position on County-Advocacy Legislation**
 - **County-opposed AB 1347 (Chiu)** - related to a claims resolution process for public contracts, was amended on June 1, 2015. As amended, the bill would authorize a meet and confer process for settlement of disputed claims by a contractor. The Department of Public Works notes that these amendments address their concerns with the bill. **Therefore, the Sacramento advocates will remove the County's opposition to AB 1347 and take a no position on the bill.**

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- **Status of County-Advocacy Legislation**

- **County-supported AB 195 (Chau)** - related to unauthorized access to computer networks, passed the Senate Public Safety Committee on June 9, 2015.
- **County-supported AB 204 (O'Donnell)** - related to the operation of an oversight board within Los Angeles County, passed the Senate Governance and Finance Committee on June 10, 2015.
- **County-supported AJR 11 (Burke)** - related to base realignment and closure (BRAC) rounds, passed the Senate Veterans Affairs Committee on June 9, 2015.

Pursuit of County Position on Legislation

AB 57 (Quirk), which as amended on April 6, 2015, would provide that a colocation or siting application for a wireless telecommunications facility is deemed approved, if the city or county fails to approve or disapprove the application within the time periods established by the commission and all required public notices have been provided regarding the application. Specifically, this bill would:

- 1) require a colocation or siting application for a wireless telecommunications facility to be deemed approved, if both of the following occur:
 - a. The city or county fails to approve or disapprove the application within the time periods established by the Federal Communications Commission's November 2009 ruling; and
 - b. All public notices regarding the application have been provided consistent with the public notice requirements for the application.
- 2) state that the Legislature finds and declares that a wireless telecommunications facility has a significant economic impact in California and is not a municipal affair as that term is used in California Constitution Article XI, Section 5, but is a matter of statewide concern.

Existing law requires a city, including a charter city, or county to administratively approve an application for a colocation facility on or immediately adjacent to a wireless telecommunications colocation facility, as defined, through the issuance of a building permit or a nondiscretionary permit, as specified. Existing law prohibits a city or county from taking certain actions as a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility.

Under existing Federal law, the Federal Communications Commission (FCC) issued a ruling, in November 2009, establishing reasonable time periods within which a local government is required to act on a colocation or siting application for a wireless telecommunications facility. The declaratory ruling (commonly referred to as the FCC's "shot clock rule") found that a "reasonable period of time" for a state and local zoning authorities to act on land use applications is within 90 days of receiving an application involving colocation and siting of wireless communications facilities, and within 150 days for siting of new facilities.

The Department of Regional Planning (DRP) reports that AB 57 would have significant impact on its ability to: 1) properly review an application for a wireless telecommunications facility for safety and community compatibility concerns; 2) allow for public participation; and 3) process other planning cases in a timely manner.

The Department of Regional Planning reports that a "deemed approved" rule interferes with the County's duty and discretion to evaluate the impacts of a proposed new or modified wireless telecommunications facility because the truncated time frame does not provide sufficient time to complete necessary environmental review, if any is needed, determine the impact to the surrounding community, or take into account public safety considerations. The DRP notes that site visits to understand the setting of the project and develop conditions of operation would likely not be possible. The DRP also reports that it consults, when necessary, with both the Department of Public Works and the Fire Department on wireless telecommunications facilities, and that such consultation with these public safety agencies would probably not be possible under the truncated processing time frames prescribed by AB 57.

The Department of Regional Planning further indicates that it complies with State law with respect to proper noticing and providing avenues for public participation. However, AB 57 would not allow sufficient time for the public to fully participate in the evaluation process because it abruptly truncates the processing time frame. The DRP indicates that for many members of the public, AB 57 would preclude them from investigating

the proposed development and fully participating in the process before the project is deemed approved; and even if all required public notices are provided, no public hearing takes place if a project is simply deemed approved, and therefore, no public comments would be considered.

The Department of Regional Planning also notes that public hearings on applications for a wireless telecommunications facility are sometimes continued, postponing a decision on the matter, to address community concerns or public safety concerns raised during the hearing. If the public hearing is not resumed prior to the truncated time frames that AB 57 would impose, the matter would be deemed approved regardless of whether or not the concerns raised were addressed. The DRP reports that this type of situation would interfere with the County's ability to serve the public health, safety, and welfare.

The Department of Regional Planning indicates that the accelerated time frame under which a wireless telecommunications facility must be reviewed, taken to public hearing, and acted upon under the bill's provisions would require the Department to dedicate staff and probably a Hearing Officer specifically for wireless telecommunications facility cases. The DRP notes that wireless telecommunications facility cases can make up 40 to 50 percent of the cases on a DRP Hearing Officer's agenda, and the department may need to increase the frequency of meetings held to consider public hearing items to accommodate the volume of cases within the accelerated time frame proposed by AB 57. Increased frequency of meetings would increase costs to DRP, as substantial costs are associated with conducting public hearings. The DRP also reports that making wireless telecommunications facility cases a priority (to meet the truncated processing time frame) would mean non-wireless telecommunications facility cases move down in the processing queue, resulting in delays for other applicants.

This office and the Department of Regional Planning oppose AB 57 because it limits the County's ability to exercise its local land use decision-making authority, evaluate the potential impacts of a proposed wireless facility on communities, and comply with existing public notice and environmental review requirements. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose legislation that infringes upon the County's local land use decision-making authority, **the Sacramento advocates will oppose AB 57.**

AB 57 is supported by: AT&T; CalChamber; California Wireless Association; California Manufacturers & Technology Association; PCIA - The Wireless Infrastructure Association; Silicon Valley Leadership Group; Sprint; Tech America; TechNet; T-Mobile; Valley Industry & Commerce Association; and Verizon.

The bill is opposed by the: American Planning Association (California Chapter); California State Association of Counties; City of Burbank; Rural County Representatives of California; and Urban Counties Caucus.

AB 57 passed the Assembly Floor by a vote of 66 to 4 on May 22, 2015. The bill is scheduled to be heard in the Senate Energy, Utilities and Communications Committee on June 16, 2015.

Change in Pursuit of County Position

County-opposed AB 1347 (Chiu), which as amended on April 21, 2015, would establish a claim resolution process for all public entity contracts entered into on or after January 1, 2016, was amended on June 1, 2015. As amended, the bill would now apply to claims by contractors in connection with public works projects. The bill would authorize the claimant to demand to meet and confer for settlement of the issues in situations where the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim within the time prescribed.

The Department of Public Works has reviewed the recent amendments and reports that new provisions allowing an opportunity for the claimant and the public entity to meet and confer on the issues under dispute, as well as submit any portion of the claim that remains in dispute after the meet and confer to a nonbinding arbitration process, provides a reasonable method and time frame to review and resolve claims for work performed under a public contract before payment to a contractor. **Therefore, the Sacramento advocates will remove the County's opposition to AB 1347 and take no position on the bill.**

Status of County-Advocacy Legislation

County-supported AB 195 (Chau), which as amended on April 6, 2015, would make it a crime for a person to solicit or to assist another to gain unauthorized access to a computer network, passed the Senate Public Safety Committee by a vote of 7 to 0 on June 9, 2015. This measure now proceeds to the Senate Appropriations Committee.

County-supported AB 204 (O'Donnell), which as amended April 9, 2015, would require an oversight board within the County of Los Angeles to continue to independently operate past the July 1, 2016 consolidation date until its successor agency adopts a resolution dissolving the board, passed the Senate Governance and Housing Committee by a vote of 6 to 0 on June 10, 2015. During the committee

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hearing, the author agreed to accept the committee's amendment to clarify that Los Angeles County is the only county that is being exempted from the July 1, 2016 consolidation date currently in redevelopment dissolution law. This measure now proceeds to the Senate Floor.

County-supported AJR 11 (Burke), which as amended on April 23, 2015, would request the President and Congress to recognize the military value of California's defense installations and the disproportionate sacrifices California has endured in previous base realignment and closure (BRAC) rounds, passed the Senate Veterans Affairs Committee by a vote of 5 to 0 on June 9, 2015. This measure now proceeds to the Senate Floor.

We will continue to keep you advised.

SAH:JJ:MR
AO:IGEA:ma

c: All Department Heads
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